

A.G. Contract No. KR98 2401TRN
ADOT ECS File No. JPA 98-187
Project: F-037-3-516
Tracts: 89A CN 609 H 4693 02 C
Section: Town of Fredonia

INTERGOVERNMENTAL AGREEMENT
LANDSCAPE MAINTENANCE
BETWEEN
THE STATE OF ARIZONA
AND
THE TOWN OF FREDONIA

THIS AGREEMENT is entered into 2 December,
1998 pursuant to Arizona Revised Statutes Sections 11-951 through 11-954, as amended
between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF
TRANSPORTATION (the "State") and the Town of Fredonia, acting by and through its Mayor
and Town Council, (the "Town").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into
this agreement and has by resolution, a copy of which is attached hereto and made part hereof,
resolved to enter into this agreement and has delegated to the undersigned the authority to
execute this agreement on behalf of the State.

2. The Town is empowered by Arizona Revised Statutes Section 48-572 to enter into
this agreement and has by resolution, a copy of which is attached hereto and made a part
hereof, resolved to enter into this agreement and has authorized the undersigned to execute this
agreement on behalf of the Town.

3. It is to the mutual advantage of the State and the Town to landscape certain areas
within the right of way on U.S. 89A at the following location.

From centerline roadway station 0+00 to centerline roadway
station 6+00 and roadway centerline station 18+00 to centerline roadway
station 43+31.45, a net distance of approximately 0.59 miles.

=====

NO. 22820
Filed with the Secretary of State
Date Filed: 12/02/98

Betsy Bayless
Secretary of State

By Dick V. Greenwood

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State will prepare landscape architectural plans for the landscaping and irrigation project and submit them to the Town for concurrence.

2. After Town concurrence of the plans, the project will be constructed by the State, at a currently estimated cost of \$140,000.00, using State funds. Upon completion of the work the Town shall reimburse the State twenty five percent (25%) of the landscape contract cost, in an amount currently estimated at \$35,000.00.

3. The Town shall furnish and install necessary water services from water mains to the designated locations within the right of way at the State's expense.

4. The Town shall furnish all water for landscape installation during the construction phase, and all water thereafter necessary to properly maintain the landscape, all at Town expense.

5. After construction, the Town shall maintain the irrigation system including all testing, adjusting, repairing and operation of the irrigation system, and shall furnish all electrical power necessary to operate the irrigation system.

6. The Town hereby agrees to maintain the landscaping. Maintenance shall consist of the care of all landscaping in accordance with accepted horticultural practices, keeping all areas free of weeds, undesirable grasses and litter, applying irrigation water, furnishing and applying insecticide/herbicide sprays and dust to combat diseases and other pests, pruning and replanting as required to maintain the landscaping as it was designed, and established at the completion of the project. The Town will not make any changes, additions or deletions without written approval of the State. All maintenance work shall be conducted in a manner to minimize traffic congestion and interference with through traffic. All traffic control will meet the requirements of the Arizona Department of Transportation's "Uniform Traffic Control Manual."

III. MISCELLANEOUS PROVISIONS

1. This agreement shall become effective upon filing with the Secretary of State.

2. The terms, conditions and provisions of this agreement shall remain in full force and effect for a period of five (5) years from the effective date, unless this Agreement violates any Arizona law, rule or regulation, either now enacted or which may be enacted in the future. This agreement will be automatically renewed for successive periods of five (5) years unless either party shall give notice in writing to the other not less than one (1) month nor more than three (3) months prior to the initial or renewed expiration date. Further, this agreement may be terminated by the State at any time upon sixty (60) days written notice. It is understood and agreed that, in the event this agreement is terminated by the Town, the State shall in no way be obligated to maintain said landscaping.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. In the event of any controversy which may arise out of this agreement, the parties hereby agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17th Avenue, Mail Drop 616E, Room 222
Phoenix, AZ. 85007

Town of Fredonia
Town Clerk
Box 217
Fredonia, AZ. 86022

8. Attached hereto is the written determination of each party's legal counsel the the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

TOWN OF FREDONIA

STATE OF ARIZONA
Department of Transportation

By Joy Jordan
JOY JORDAN
Mayor

By Peter L. Eno
PETER L. ENO
Contract Administrator

ATTEST

By Barbara Kimball
BARBARA KIMBALL
Town Clerk

APPROVAL OF THE FREDONIA TOWN ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION and the TOWN OF FREDONIA and declare this agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona.

DATED this 29th day of October, 1998.



Mangum, Wall, Stoops & Warden, P.L.L.C.
Town Attorney



STATE OF ARIZONA

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GRANT WOODS
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR98-2401TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATE November 25, 1998.

GRANT WOODS
Attorney General

A handwritten signature in cursive script, reading "James R. Redpath", is written over a horizontal line.

JAMES R. REDPATH
Assistant Attorney General
Transportation Section


JRR:et/16978

Enc.

RESOLUTION

BE IT RESOLVED on this 19th day of October 1998, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the Town of Fredonia for the purpose of defining responsibilities for the design and construction of landscaping improvements to US-89A in the Town.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.


DAVID R. ALLOCCO, P.E.
Assistant State Engineer
Engineering Technical Group
for Mary E. Peters, Director

TOWN OF FREDONIA

RESOLUTION # 98-005

Be It Resolved on this 11th day of November, 1998, that I, the undersigned Joy Jordan, Mayor of the Town of Fredonia, Arizona, and members of the Fredonia Town Council, have determined that it is in the best interests of the Town of Fredonia to enter into an agreement with the State of Arizona for the purpose of defining responsibilities for the design and construction of landscaping improvements to US - 89A in the Town.

Passed and signed this 11th day of November, 1998.

Mayor *Joy R. Jordan*

Attest:

Clerk *Barton Lindell*